

1 AN ACT relating to duty-related disability benefits and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 16.505 is amended to read as follows:

4 As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- 5 (1) "System" means the State Police Retirement System created by KRS 16.505 to
6 16.652;
- 7 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- 8 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its
9 successor;
- 10 (4) "Current service" means the number of years and completed months of employment
11 as an employee subsequent to July 1, 1958, for which creditable compensation was
12 paid by the employer and employee contributions deducted except as otherwise
13 provided;
- 14 (5) "Prior service" means the number of years and completed months of employment as
15 an employee prior to July 1, 1958, for which creditable compensation was paid to
16 the employee by the Commonwealth. Twelve (12) months of current service in the
17 system are required to validate prior service;
- 18 (6) "Service" means the total of current service and prior service;
- 19 (7) "Accumulated contributions" at any time means the sum of all amounts deducted
20 from the compensation of a member and credited to his individual account in the
21 member's account, including employee contributions picked up after August 1,
22 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts
23 as provided in KRS 16.505 to 16.652, and any other amounts the member shall have
24 contributed, including interest credited. For members who begin participating on or
25 after September 1, 2008, "accumulated contributions" shall not include employee
26 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.
27 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as

1 prescribed by KRS 61.702(2)(b);

2 (8) "Creditable compensation":

3 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary
4 and wages, including payments for compensatory time, paid to the employee
5 as a result of services performed for the employer or for time during which the
6 member is on paid leave, which are includable on the member's federal form
7 W-2 wage and tax statement under the heading "wages, tips, other
8 compensation," including employee contributions picked up after August 1,
9 1982, pursuant to KRS 16.545(4);

10 (b) Includes:

11 1. Lump-sum bonuses, severance pay, or employer-provided payments for
12 purchase of service credit, which shall be averaged over the employee's
13 total service with the system in which it is recorded if it is equal to or
14 greater than one thousand dollars (\$1,000);

15 2. Lump-sum payments for creditable compensation paid as a result of an
16 order of a court of competent jurisdiction, the Personnel Board, or the
17 Commission on Human Rights, or for any creditable compensation paid
18 in anticipation of settlement of an action before a court of competent
19 jurisdiction, the Personnel Board, or the Commission on Human Rights,
20 including notices of violations of state or federal wage and hour statutes
21 or violations of state or federal discrimination statutes, which shall be
22 credited to the fiscal year during which the wages were earned or should
23 have been paid by the employer. This subparagraph shall also include
24 lump-sum payments for reinstated wages pursuant to KRS 61.569,
25 which shall be credited to the period during which the wages were
26 earned or should have been paid by the employer;

27 3. Amounts which are not includable in the member's gross income by

1 virtue of the member having taken a voluntary salary reduction provided
2 for under applicable provisions of the Internal Revenue Code; and

3 4. Elective amounts for qualified transportation fringes paid or made
4 available on or after January 1, 2001, for calendar years on or after
5 January 1, 2001, that are not includable in the gross income of the
6 employee by reason of 26 U.S.C. sec. 132(f)(4); and

7 (c) Excludes:

8 1. Uniform, equipment, or any other expense allowances paid on or after
9 January 1, 2019, living allowances, expense reimbursements, lump-sum
10 payments for accrued vacation leave, and other items determined by the
11 board;

12 2. For employees who begin participating on or after September 1, 2008,
13 lump-sum payments for compensatory time; and

14 3. Any salary or wages paid to an employee for services as a Kentucky
15 State Police school resource officer as defined by KRS 158.441;

16 (9) "Final compensation" means:

17 (a) For a member who begins participating prior to September 1, 2008, who
18 retires prior to January 1, 2019, the creditable compensation of a member
19 during the three (3) fiscal years he was paid at the highest average monthly
20 rate divided by the number of months of service credit during the three (3)
21 year period, multiplied by twelve (12); the three (3) years may be fractional
22 and need not be consecutive. If the number of months of service credit during
23 the three (3) year period is less than twenty-four (24), one (1) or more
24 additional fiscal years shall be used; or

25 (b) For a member who begins participating on or after September 1, 2008, but
26 prior to January 1, 2014, or for a member who begins participating prior to
27 September 1, 2008, who retires on or after January 1, 2019, the creditable

1 compensation of the member during the three (3) complete fiscal years he or
2 she was paid at the highest average monthly rate divided by three (3). Each
3 fiscal year used to determine final compensation must contain twelve (12)
4 months of service credit. If the member does not have three (3) complete
5 fiscal years that each contain twelve (12) months of service credit, then one
6 (1) or more additional fiscal years, which may contain less than twelve (12)
7 months of service credit, shall be added until the number of months in the
8 final compensation calculation is at least thirty-six (36) months;

9 (10) "Final rate of pay" means the actual rate upon which earnings of a member were
10 calculated during the twelve (12) month period immediately preceding the
11 member's effective retirement date, including employee contributions picked up
12 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the
13 system by the employer and the following equivalents shall be used to convert the
14 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
15 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-
16 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12)
17 months, or one (1) year;

18 (11) "Retired member" means any former member receiving a retirement allowance or
19 any former member who has filed the necessary documents for retirement benefits
20 and is no longer contributing to the retirement system;

21 (12) "Retirement allowance" means the retirement payments to which a retired member
22 is entitled;

23 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the
24 basis of actuarial tables adopted by the board. In cases of disability retirement, the
25 options authorized by KRS 61.635 shall be computed by adding ten (10) years to
26 the age of the member, unless the member has chosen the Social Security
27 adjustment option as provided for in KRS 61.635(8), in which case the member's

- 1 actual age shall be used. For members who began participating in the system prior
2 to January 1, 2014, no disability retirement option shall be less than the same option
3 computed under early retirement;
- 4 (14) "Authorized leave of absence" means any time during which a person is absent from
5 employment but retained in the status of an employee in accordance with the
6 personnel policy of the Department of Kentucky State Police;
- 7 (15) "Normal retirement date" means:
- 8 (a) For a member who begins participating before September 1, 2008, the first
9 day of the month following a member's fifty-fifth birthday, except that for
10 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,
11 1959; or
- 12 (b) For a member who begins participating on or after September 1, 2008, the
13 first day of the month following a member's sixtieth birthday;
- 14 (16) "Disability retirement date" means the first day of the month following the last day
15 of paid employment;
- 16 (17) "Dependent child" means a child in the womb and a natural or legally adopted child
17 of the member who has neither attained age eighteen (18) nor married or who is an
18 unmarried full-time student who has not attained age twenty-two (22). Solely in the
19 **cases where**~~case of~~ a member ~~who~~ dies as a direct result of an act in line of duty
20 as defined in this section, ~~or who~~ dies as a result of a duty-related injury as defined
21 in KRS 61.621, **becomes totally and permanently disabled as a direct result of an**
22 **act in the line of duty as defined in this section or as a direct result of a single act**
23 **of violence committed against the member that is found to be related to his or her**
24 **job duties, whether or not it occurs at his or her job site, or becomes disabled as a**
25 **result of a duty-related injury as defined in Section 3 of this Act,** "dependent
26 child" also means a naturally or legally adopted disabled child of the member,
27 regardless of the child's age, if the child has been determined to be eligible for

- 1 federal Social Security disability benefits or is being claimed as a qualifying child
2 for tax purposes due to the child's total and permanent disability;
- 3 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member
4 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 5 (19) "Act in line of duty" means an act occurring or a thing done, which, as determined
6 by the board, was required in the performance of the duties specified in KRS
7 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of
8 duty" shall mean an act occurring which was required in the performance of the
9 principal duties of the position as defined by the job description;
- 10 (20) "Early retirement date" means:
- 11 (a) For a member who begins participating before September 1, 2008, the
12 retirement date declared by a member who is not less than fifty (50) years of
13 age and has fifteen (15) years of service; or
- 14 (b) For a member who begins participating on or after September 1, 2008, but
15 prior to January 1, 2014, the retirement date declared by a member who is not
16 less than fifty (50) years of age and has fifteen (15) years of service credited
17 under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered
18 retirement system;
- 19 (21) "Member" means any officer included in the membership of the system as provided
20 under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 21 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS
22 16.010;
- 23 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which
24 results in an employee's total incapacity to continue as an employee in a hazardous
25 position, but the employee is not necessarily deemed to be totally and permanently
26 disabled to engage in other occupations for remuneration or profit;
- 27 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,

- 1 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
2 pay. The rate shall be certified by the employer;
- 3 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
4 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
5 in the event of the member's death. As used in KRS 61.702, "beneficiary" does not
6 mean an estate, trust, or trustee;
- 7 (26) "Recipient" means the retired member, the person or persons designated as
8 beneficiary by the member and drawing a retirement allowance as a result of the
9 member's death, or a dependent child drawing a retirement allowance. An alternate
10 payee of a qualified domestic relations order shall not be considered a recipient,
11 except for purposes of KRS 61.623;
- 12 (27) "Person" means a natural person;
- 13 (28) "Retirement office" means the Kentucky Retirement Systems office building in
14 Frankfort;
- 15 (29) "Delayed contribution payment" means an amount paid by an employee for
16 purchase of current service. The amount shall be determined using the same formula
17 in KRS 61.5525, and the payment shall not be picked up by the employer. A
18 delayed contribution payment shall be deposited to the member's account and
19 considered as accumulated contributions of the individual member;
- 20 (30) "Last day of paid employment" means the last date employer and employee
21 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
22 78.615 to the retirement office in order for the employee to receive current service
23 credit for the month. Last day of paid employment does not mean a date the
24 employee receives payment for accrued leave, whether by lump sum or otherwise, if
25 that date occurs twenty-four (24) or more months after previous contributions;
- 26 (31) "Objective medical evidence" means reports of examinations or treatments; medical
27 signs which are anatomical, physiological, or psychological abnormalities that can

- 1 be observed; psychiatric signs which are medically demonstrable phenomena
2 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
3 or contact with reality; or laboratory findings which are anatomical, physiological,
4 or psychological phenomena that can be shown by medically acceptable laboratory
5 diagnostic techniques, including but not limited to chemical tests,
6 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 7 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the
8 following June 30, which shall also be the plan year. The "fiscal year" shall be the
9 limitation year used to determine contribution and benefit limits established by 26
10 U.S.C. sec. 415;
- 11 (33) "Participating" means an employee is currently earning service credit in the system
12 as provided in KRS 16.543;
- 13 (34) "Month" means a calendar month;
- 14 (35) "Membership date" means the date upon which the member began participating in
15 the system as provided by KRS 16.543;
- 16 (36) "Participant" means a member, as defined by subsection (21) of this section, or a
17 retired member, as defined by subsection (11) of this section;
- 18 (37) "Qualified domestic relations order" means any judgment, decree, or order,
19 including approval of a property settlement agreement, that:
- 20 (a) Is issued by a court or administrative agency; and
21 (b) Relates to the provision of child support, alimony payments, or marital
22 property rights to an alternate payee;
- 23 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
24 participant, who is designated to be paid retirement benefits in a qualified domestic
25 relations order;
- 26 (39) "Accumulated employer credit" means the employer pay credit deposited to the
27 member's account and interest credited on such amounts as provided by KRS

1 16.583;

2 (40) "Accumulated account balance" means:

3 (a) For members who began participating in the system prior to January 1, 2014,
4 the member's accumulated contributions; or

5 (b) For members who began participating in the system on or after January 1,
6 2014, in the hybrid cash balance plan as provided by KRS 16.583, the
7 combined sum of the member's accumulated contributions and the member's
8 accumulated employer pay credit; and

9 (41) "Monthly average pay" means:

10 **(a) In the case of a member who dies as a direct result of an act in line of duty**
11 **as defined in this section or who dies as a result of a duty-related injury as**
12 **defined in KRS 61.621,** the higher of the member's monthly final rate of pay
13 or the average monthly creditable compensation earned by the deceased
14 member during his or her last twelve (12) months of employment; **or**

15 **(b) In the case where a member becomes totally and permanently disabled as a**
16 **direct result of an act in line of duty as defined in this section or as a direct**
17 **result of a single act of violence committed against the member that is**
18 **found to be related to his or her job duties, whether or not it occurs at his or**
19 **her job site, or becomes disabled as a result of a duty-related injury as**
20 **defined in Section 3 of this Act, the higher of the member's monthly final**
21 **rate of pay or the average monthly creditable compensation earned by the**
22 **disabled member during his or her last twelve (12) months of employment**
23 **prior to the date the disabling event occurred or the single act of violence**
24 **occurred.**

25 ➔Section 2. KRS 16.582 is amended to read as follows:

26 (1) (a) Total and permanent disability means a disability which results in the
27 member's incapacity to engage in any occupation for remuneration or profit.

- 1 Loss by severance of both hands at or above the wrists, or both feet at or
2 above the ankles, or one (1) hand above the wrist and one (1) foot above the
3 ankle, or the complete, irrevocable loss of the sight of both eyes shall be
4 considered as total and permanent.
- 5 (b) Hazardous disability means a disability which results in the member's total
6 incapacity to continue as a regular full-time officer or as an employee in a
7 hazardous position, as defined in KRS 61.592, but which does not result in the
8 member's total and permanent incapacity to engage in other occupations for
9 remuneration or profit.
- 10 (c) In determining whether the disability meets the requirement of this section,
11 any reasonable accommodation provided by the employer as provided in 42
12 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
- 13 (d) If the board determines that the total and permanent disability of a member
14 receiving a retirement allowance under this section has ceased, then the board
15 shall determine if the member has a hazardous disability.
- 16 (2) Any person may qualify to retire on disability, subject to the following:
- 17 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
18 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
19 service requirement shall be waived if the disability is a total and permanent
20 disability or a hazardous disability and is a direct result of an act in line of
21 duty;
- 22 (b) For a person whose membership date is prior to August 1, 2004, the person
23 shall not be eligible for an unreduced retirement allowance;
- 24 (c) The person's application shall be on file in the retirement office no later than
25 twenty-four (24) months after the person's last day of paid employment, as
26 defined in KRS 16.505, as a regular full-time officer or in a regular full-time
27 hazardous position under KRS 61.592;

1 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
2 and

3 (e) A person's disability application based on the same claim of incapacity shall
4 be accepted and reconsidered for disability if accompanied by new objective
5 medical evidence. The application shall be on file in the retirement office no
6 later than twenty-four (24) months after the person's last day of paid
7 employment as a regular full-time officer or in a regular full-time hazardous
8 position.

9 (3) Upon the examination of the objective medical evidence by licensed physicians
10 pursuant to KRS 61.665, it shall be determined that:

11 (a) The incapacity results from bodily injury, mental illness, or disease. For
12 purposes of this section, "injury" means any physical harm or damage to the
13 human organism other than disease or mental illness;

14 (b) The incapacity is deemed to be permanent; and

15 (c) The incapacity does not result directly or indirectly from:

16 1. Injury intentionally self-inflicted while sane or insane; or

17 2. Bodily injury, mental illness, disease, or condition which pre-existed
18 membership in the system or reemployment, whichever is most recent,
19 unless:

20 a. The disability results from bodily injury, mental illness, disease, or
21 a condition which has been substantially aggravated by an injury or
22 accident arising out of or in the course of employment; or

23 b. The person has at least sixteen (16) years' current or prior service
24 for employment with employers participating in the retirement
25 systems administered by the Kentucky Retirement Systems.

26 For purposes of this subparagraph, "reemployment" shall not mean a
27 change of employment between employers participating in the

1 retirement systems administered by the Kentucky Retirement Systems
2 with no loss of service credit.

- 3 (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result
4 in death or can be expected to last for a continuous period of not less
5 than twelve (12) months from the person's last day of paid employment
6 in a position as regular full-time officer or a hazardous position.
- 7 2. The determination of a permanent incapacity shall be based on the
8 medical evidence contained in the member's file and the member's
9 residual functional capacity and physical exertion requirements.
- 10 (b) The person's residual functional capacity shall be the person's capacity for
11 work activity on a regular and continuing basis. The person's physical ability
12 shall be assessed in light of the severity of the person's physical, mental, and
13 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
14 handle, and other physical functions shall be considered with regard to
15 physical impairments. The person's ability to understand, remember, and carry
16 out instructions and respond appropriately to supervision, coworkers, and
17 work pressures in a work setting shall be considered with regard to mental
18 impairments. Other impairments, including skin impairments, epilepsy, visual
19 sensory impairments, postural and manipulative limitations, and
20 environmental restrictions, shall be considered in conjunction with the
21 person's physical and mental impairments to determine residual functional
22 capacity.
- 23 (c) The person's physical exertion requirements shall be determined based on the
24 following standards:
- 25 1. Sedentary work shall be work that involves lifting no more than ten (10)
26 pounds at a time and occasionally lifting or carrying articles such as
27 large files, ledgers, and small tools. Although a sedentary job primarily

1 involves sitting, occasional walking and standing may also be required
2 in the performance of duties.

3 2. Light work shall be work that involves lifting no more than twenty (20)
4 pounds at a time with frequent lifting or carrying of objects weighing up
5 to ten (10) pounds. A job shall be in this category if lifting is
6 infrequently required but walking and standing are frequently required,
7 or if the job primarily requires sitting with pushing and pulling of arm or
8 leg controls. If the person has the ability to perform substantially all of
9 these activities, the person shall be deemed capable of light work. A
10 person deemed capable of light work shall be deemed capable of
11 sedentary work unless the person has additional limitations such as the
12 loss of fine dexterity or inability to sit for long periods.

13 3. Medium work shall be work that involves lifting no more than fifty (50)
14 pounds at a time with frequent lifting or carrying of objects weighing up
15 to twenty-five (25) pounds. If the person is deemed capable of medium
16 work, the person shall be deemed capable of light and sedentary work.

17 4. Heavy work shall be work that involves lifting no more than one
18 hundred (100) pounds at a time with frequent lifting or carrying of
19 objects weighing up to fifty (50) pounds. If the person is deemed capable
20 of heavy work, the person shall also be deemed capable of medium,
21 light, and sedentary work.

22 5. Very heavy work shall be work that involves lifting objects weighing
23 more than one hundred (100) pounds at a time with frequent lifting or
24 carrying of objects weighing fifty (50) or more pounds. If the person is
25 deemed capable of very heavy work, the person shall be deemed capable
26 of heavy, medium, light, and sedentary work.

27 (5) (a) The disability retirement allowance shall be determined as provided in KRS

1 16.576, except if the member's total service credit on his last day of paid
2 employment in a regular full-time position is less than twenty (20) years,
3 service shall be added beginning with his last date of paid employment and
4 continuing to his fifty-fifth birthday. The maximum service credit added shall
5 not exceed the total service the member had on his last day of paid
6 employment, and the maximum service credit for calculating his retirement
7 allowance, including his total service and service added under this section,
8 shall not exceed twenty (20) years.

9 (b) For a member whose participation begins on or after August 1, 2004, but prior
10 to January 1, 2014, the disability retirement allowance shall be the higher of
11 twenty-five percent (25%) of the member's monthly final rate of pay or the
12 retirement allowance determined in the same manner as for retirement at his
13 normal retirement date with years of service and final compensation being
14 determined as of the date of his disability.

15 (c) For a member who begins participating on or after January 1, 2014, in the
16 hybrid cash balance plan as provided by KRS 16.583, the disability retirement
17 allowance shall be the higher of twenty-five percent (25%) of the member's
18 monthly final rate of pay or the retirement allowance determined in the same
19 manner as for retirement at his or her normal retirement date under KRS
20 16.583.

21 (6) If the member receives a satisfactory determination of total and permanent disability
22 or hazardous disability pursuant to KRS 61.665 and the disability is the direct result
23 of an act in line of duty **as defined in Section 1 of this Act**, the member's retirement
24 allowance shall be calculated as follows:

25 (a) For the disabled member, **the** benefits as provided in subsection (5) of this
26 section except that:

27 **1. If the disabling condition is a hazardous disability that is a direct**

1 result of an act in line of duty, the monthly retirement allowance
 2 payable shall not be less than twenty-five percent (25%) of the member's
 3 monthly average~~[final rate of]~~ pay; or

4 2. If the disabling condition is a total and permanent disability that is a
 5 direct result of an act in line of duty or a direct result of a single act of
 6 violence committed against the member that is found to be related to
 7 his or her job duties, whether or not it occurs at his or her job site, the
 8 monthly retirement allowance payable shall not be less than seventy-
 9 five percent (75%) of the member's monthly average pay; and

10 (b) For each dependent child of the member on his disability retirement date, who
 11 is alive at the time any particular payment is due, a monthly payment equal to
 12 ten percent (10%) of the disabled member's monthly final rate of pay; except
 13 that:~~[however,]~~

14 1. Member and dependent children payments under this subsection shall
 15 not exceed one hundred percent (100%) of the member's monthly
 16 average pay; and

17 2. Total maximum dependent children's benefits~~[benefit]~~ shall not exceed
 18 twenty-five percent (25%) of the member's monthly average pay while
 19 the member is living and forty percent (40%) of the member's monthly
 20 average pay~~[final rate of pay]~~ after the member's death. The payments
 21 shall be payable to each dependent child, or to a legally appointed
 22 guardian or as directed by the system and shall be divided equally
 23 among all dependent children.

24 (7) No benefit provided in this section shall be reduced as a result of any change in the
 25 extent of disability of any retired member who is age fifty-five (55) or older.

26 (8) If a regular full-time officer or hazardous position member has been approved for
 27 benefits under a hazardous disability, the board shall, upon request of the member,

1 permit the member to receive the hazardous disability allowance while accruing
2 benefits in a nonhazardous position, subject to proper medical review of the
3 nonhazardous position's job description by the system's medical examiner.

4 (9) For a member of the State Police Retirement System, in lieu of the allowance
5 provided in subsection (5) or (6) of this section, the member may be retained on the
6 regular payroll and receive the compensation authorized by KRS 16.165, if he is
7 qualified.

8 ➔Section 3. KRS 61.621 is amended to read as follows:

9 (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,
10 2000, any employee participating in one (1) of the state-administered retirement
11 systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be
12 eligible for minimum benefits equal to the benefits payable under this section or
13 KRS 61.702 if the employee dies or becomes totally and permanently disabled to
14 engage in any occupation for remuneration or profit as a result of a duty-related
15 injury.

16 (2) (a) For purposes of this section, "duty-related injury" means:

- 17 1. a. A single traumatic event that occurs while the employee is
18 performing the duties of his position; or
- 19 b. A single act of violence committed against the employee that is
20 found to be related to his job duties, whether or not it occurs at his
21 job site; and
- 22 2. The event or act of violence produces a harmful change in the human
23 organism evidenced by objective medical findings.

24 (b) "Duty-related injury" does not include the effects of the natural aging process,
25 a communicable disease unless the risk of contracting the disease is increased
26 by nature of the employment, or a psychological, psychiatric, or stress-related
27 change in the human organism unless it is the direct result of a physical injury.

- 1 (3) (a) If the employee dies as a result of a duty-related injury and is survived by a
2 spouse, the surviving spouse shall be the beneficiary, and this shall supersede
3 the designation of all previous beneficiaries of the deceased employee's
4 retirement account, except as provided in KRS 61.542(2)(e).
- 5 (b) The surviving spouse, provided he or she supersedes all previously designated
6 beneficiaries, may elect to receive the benefits payable under KRS 61.640 or
7 other applicable death benefit statutes, or may elect to receive a lump-sum
8 payment of ten thousand dollars (\$10,000) and a monthly payment equal to
9 seventy-five percent (75%) of the member's monthly average pay beginning in
10 the month following the member's death and continuing each month until the
11 surviving spouse remarries or until the death of the unmarried surviving
12 spouse.
- 13 (c) The monthly payment to the surviving spouse upon remarriage shall be
14 twenty-five percent (25%) of the member's monthly average pay beginning in
15 the month following remarriage and continuing each month until death.
- 16 (d) In addition, if the member is also survived by dependent children, monthly
17 payments shall be made for each dependent child equal to ten percent (10%)
18 of the deceased member's monthly average pay, except that the combined
19 maximum payment made to the:
- 20 1. Surviving spouse and dependent children under this subsection shall not
21 exceed one hundred percent (100%) of the deceased member's monthly
22 average pay; and
 - 23 2. Dependent children, while the surviving spouse is living or prior to the
24 surviving spouse remarrying, shall not exceed twenty-five percent (25%)
25 of the deceased member's monthly average pay. Payments made to the
26 dependent children under this subsection shall be divided equally among
27 all the dependent children.

1 (4) If the employee dies as a result of a duty-related injury and is not survived by a
 2 spouse but is survived by a dependent child or children, the following benefits shall
 3 be paid to the dependent child or children:

- 4 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the
 5 deceased member has one (1) dependent child;
- 6 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if
 7 the deceased member has two (2) dependent children; or
- 8 (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if
 9 the deceased member has three (3) or more dependent children.

10 Payments made to the dependent children under this subsection shall be divided
 11 equally among all the dependent children.

12 (5) If the employee is determined to be disabled as provided in KRS 61.600, or other
 13 applicable disability statutes in any other state-administered retirement system, as
 14 the result of a duty-related injury, the employee may elect to receive benefits
 15 determined under the provisions of KRS 61.605, or other applicable disability
 16 statutes in any other state-administered retirement system, except that the monthly
 17 retirement allowance shall not be less than ~~seventy-five~~~~[twenty-five]~~ percent
 18 ~~(75%)~~~~[(25%)]~~ of the employee's monthly ~~average~~~~[final rate of]~~ pay. For purposes of
 19 determining disability, the service requirement in KRS 61.600(1)(a), or other
 20 applicable statutes in any other state-administered retirement system, shall be
 21 waived.

22 (6) In the period of time following a member's disability during which dependent
 23 children survive, a monthly payment shall be made for each dependent child who is
 24 alive which shall be equal to ten percent (10%) of the disabled member's monthly
 25 final rate of pay; except that:~~[however,]~~

26 **1. Member and dependent children payments under this section shall not**
 27 **exceed one hundred percent (100%) of the member's monthly average pay;**

1 and
2 2. Total maximum dependent children's benefits shall not exceed twenty-five
3 percent (25%) of the member's monthly average pay while the member is
4 living and forty percent (40%) of the disabled member's monthly
5 average~~[final rate of]~~ pay after the member's death~~[at the time any particular~~
6 ~~payment is due]~~. The payment shall commence in the month following the
7 date of disability of the member and shall be payable to the beneficiaries, or to
8 a legally appointed guardian, or as directed by the system and shall be divided
9 equally among all dependent children.

10 (7) Benefits for death as a result of a duty-related injury to a dependent child shall be
11 payable under this section notwithstanding an election by a surviving spouse or
12 beneficiary to withdraw the deceased member's accumulated account balance as
13 provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to
14 61.705 or other applicable death benefit statutes in any other state-administered
15 retirement system.

16 (8) (a) A spouse applying for benefits under this section who is also eligible for
17 benefits under KRS 61.640 may elect to receive benefits under KRS
18 61.640(2)(a) or (b) while the application for benefits under this section is
19 pending.

20 (b) If a final determination results in a finding of eligibility for benefits under this
21 section, the system shall recalculate the benefits due the spouse in accordance
22 with this subsection.

23 (c) If the spouse has been paid less than the amount of benefits to which the
24 spouse was entitled to receive under this section, the system shall pay the
25 additional funds due to the spouse.

26 (d) If the spouse has been paid more than the benefit the spouse was eligible to
27 receive under this section, then the system shall deduct the amount owed by

1 the spouse from the ten thousand dollars (\$10,000) lump-sum payment and
2 from the monthly retirement allowance payments until the amount owed to the
3 systems has been recovered.

4 (9) For purposes of this section, "dependent child" has the same meaning as in KRS
5 16.505.

6 (10) This section shall be known as "The Fred Capps Memorial Act."

7 ➔Section 4. KRS 61.702 is amended to read as follows:

8 (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by
9 appropriate contract or on a self-insured basis to provide a group
10 hospital and medical insurance plan for present and future recipients of a
11 retirement allowance from the Kentucky Employees Retirement System,
12 County Employees Retirement System, and State Police Retirement
13 System, except as provided in subsection (8) of this section. The board
14 shall also arrange to provide health care coverage through an insurer
15 licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a
16 managed care plan as defined in KRS 304.17A-500, as an alternative to
17 group hospital and medical insurance for any person eligible for hospital
18 and medical benefits under this section.

19 2. Any person who chooses coverage under a hospital and medical
20 insurance plan shall pay, by payroll deduction from the retirement
21 allowance or by another method, the difference in premium between the
22 cost of the hospital and medical insurance plan coverage and the benefits
23 to which he would be entitled under this section.

24 3. For purposes of this section, "hospital and medical insurance plan" may
25 include, at the board's discretion, any one (1) or more of the following:

26 a. Any hospital and medical expense policy or certificate, provider-
27 sponsored integrated health delivery network, self-insured medical

1 plan, health maintenance organization contract, or other health
2 benefit plan;

3 b. Any health savings account as permitted by 26 U.S.C. sec. 223 or
4 health reimbursement arrangement or a similar account as may be
5 permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or
6 account, in the board's discretion, may reimburse any medical
7 expense permissible under 26 U.S.C. sec. 213; or

8 c. A medical insurance reimbursement program established by the
9 board through the promulgation of administrative regulation under
10 which members purchase individual health insurance coverage
11 through a health insurance exchange established under 42 U.S.C.
12 sec. 18031 or 18041.

13 (b) The board may authorize present and future recipients of a retirement
14 allowance from any of the three (3) retirement systems to be included in the
15 state employees' group for hospital and medical insurance and shall provide
16 benefits for recipients equal to those provided to state employees having the
17 same Medicare hospital and medical insurance eligibility status, except as
18 provided in subsection (8) of this section. Notwithstanding the provisions of
19 any other statute, recipients shall be included in the same class as current state
20 employees in determining medical insurance policies and premiums.

21 (c) For recipients of a retirement allowance who are not eligible for the same
22 level of hospital and medical benefits as recipients living in Kentucky having
23 the same Medicare hospital and medical insurance eligibility status, the board
24 shall provide a medical insurance reimbursement plan as described in
25 subsection (7) of this section.

26 (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of
27 trustees, in its discretion, may take necessary steps to ensure compliance with

1 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving
2 contributions and premiums from, and providing benefits pursuant to this
3 section to, persons entitled to continuation coverage under 42 U.S.C. secs.
4 300bb-1 et seq., regardless of whether such persons are recipients of a
5 retirement allowance.

6 (2) (a) Each employer participating in the State Police Retirement System as
7 provided for in KRS 16.505 to 16.652, each employer participating in the
8 County Employees Retirement System as provided in KRS 78.510 to 78.852,
9 and each employer participating in the Kentucky Employees Retirement
10 System as provided for in KRS 61.510 to 61.705 shall contribute to the
11 Kentucky Retirement Systems insurance trust fund the amount necessary to
12 provide hospital and medical insurance as provided for under this section.
13 Such employer contribution rate shall be developed by appropriate actuarial
14 method as a part of the determination of each respective employer
15 contribution rate to each respective retirement system determined under KRS
16 61.565.

17 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
18 from the creditable compensation of each member having a membership
19 date on or after September 1, 2008, an amount equal to one percent (1%)
20 of the member's creditable compensation. The deducted amounts shall,
21 at the discretion of the board, be credited to accounts established
22 pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS
23 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems
24 insurance trust fund established under KRS 61.701, or partially to one
25 (1) fund with the remainder deposited to the other fund. Notwithstanding
26 the provisions of this paragraph, a transfer of assets between the
27 accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds

- 1 established in KRS 16.510, 61.515, and 78.520, and the Kentucky
2 Retirement Systems insurance trust fund established under KRS 61.701
3 shall not be allowed.
- 4 2. The employer shall file the contributions as provided by subparagraph 1.
5 of this paragraph at the retirement office in accordance with KRS 61.675
6 and 78.625. Any interest or penalties paid on any delinquent
7 contributions shall be credited to accounts established pursuant to 26
8 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515,
9 and 78.520, or the Kentucky Retirement Systems insurance trust fund
10 established under KRS 61.701. Notwithstanding any minimum
11 compensation requirements provided by law, the deductions provided by
12 this paragraph shall be made, and the compensation of the member shall
13 be reduced accordingly.
- 14 3. Each employer shall submit payroll reports, contributions lists, and other
15 data as may be required by administrative regulation promulgated by the
16 board of trustees pursuant to KRS Chapter 13A.
- 17 4. Every member shall be deemed to consent and agree to the deductions
18 made pursuant to this paragraph, and the payment of salary or
19 compensation less the deductions shall be a full and complete discharge
20 of all claims for services rendered by the person during the period
21 covered by the payment, except as to any benefits provided by KRS
22 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member
23 may elect whether to participate in, or choose the contribution amount
24 payable to accounts established pursuant to 26 U.S.C. sec. 401(h) within
25 the funds established in KRS 16.510, 61.515, and 78.520, or the
26 Kentucky Retirement Systems insurance trust fund established under
27 KRS 61.701. The member shall have no option to receive the

1 contribution required by this paragraph directly instead of having the
2 contribution paid to accounts established pursuant to 26 U.S.C. sec.
3 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,
4 or the Kentucky Retirement Systems insurance trust fund established
5 under KRS 61.701. No member may receive a rebate or refund of
6 contributions. If a member establishes a membership date prior to
7 September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this
8 paragraph shall not apply to the member and all contributions previously
9 deducted in accordance with this paragraph shall be refunded to the
10 member without interest. The contribution made pursuant to this
11 paragraph shall not act as a reduction or offset to any other contribution
12 required of a member or recipient under KRS 16.505 to 16.652, 61.510
13 to 61.705, and 78.510 to 78.852.

14 5. The board of trustees, at its discretion, may direct that the contributions
15 required by this paragraph be accounted for within accounts established
16 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
17 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems
18 insurance trust fund established under KRS 61.701, through the use of
19 separate accounts.

20 (3) (a) The premium required to provide hospital and medical benefits under this
21 section shall be paid:

- 22 1. Wholly or partly from funds contributed by the recipient of a retirement
23 allowance, by payroll deduction, or otherwise;
- 24 2. Wholly or partly from funds contributed by the Kentucky Retirement
25 Systems insurance trust fund;
- 26 3. Wholly or partly from funds contributed to accounts established
27 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS

- 1 16.510, 61.515, and 78.520;
- 2 4. Wholly or partly from funds contributed by another state-administered
- 3 retirement system under a reciprocal arrangement, except that any
- 4 portion of the premium paid from the Kentucky Retirement Systems
- 5 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.
- 6 401(h) within the funds established in KRS 16.510, 61.515, and 78.520
- 7 under a reciprocal agreement shall not exceed the amount that would be
- 8 payable under this section if all the member's service were in one (1) of
- 9 the systems administered by the Kentucky Retirement Systems;
- 10 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any
- 11 premium for hospital and medical insurance over the amount contributed
- 12 by the Kentucky Retirement Systems insurance trust fund; accounts
- 13 established pursuant to 26 U.S.C. sec. 401(h) within the funds
- 14 established in KRS 16.510, 61.515, and 78.520; or another state-
- 15 administered retirement system under a reciprocal agreement shall be
- 16 paid by the recipient by an automatic electronic transfer of funds. If the
- 17 board provides for cross-referencing of insurance premiums, the
- 18 employer's contribution for the working member or spouse shall be
- 19 applied toward the premium, and the Kentucky Retirement Systems
- 20 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.
- 21 401(h) within the funds established in KRS 16.510, 61.515, and 78.520
- 22 shall pay the balance, not to exceed the monthly contribution; or
- 23 6. In full from the Kentucky Retirement Systems insurance trust fund or
- 24 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
- 25 established in KRS 16.510, 61.515, and 78.520 for all recipients of a
- 26 retirement allowance from any of the three (3) retirement systems where
- 27 such recipient is a retired former member of one (1) or more of the three

1 (3) retirement systems (not a beneficiary or dependent child receiving
2 benefits) and had two hundred and forty (240) months or more of service
3 upon retirement. Should such recipient have less than two hundred forty
4 (240) months of service but have at least one hundred eighty (180)
5 months of service, seventy-five percent (75%) of such premium shall be
6 paid from the insurance trust fund or accounts established pursuant to 26
7 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
8 and 78.520, provided such recipient agrees to pay the remaining twenty-
9 five percent (25%) by payroll deduction from his retirement allowance
10 or by another method. Should such recipient have less than one hundred
11 eighty (180) months of service but have at least one hundred twenty
12 (120) months of service, fifty percent (50%) of such premium shall be
13 paid from the insurance trust fund or accounts established pursuant to 26
14 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
15 and 78.520, provided such recipient agrees to pay the remaining fifty
16 percent (50%) by payroll deduction from his retirement allowance or by
17 another method. Should such recipient have less than one hundred
18 twenty (120) months of service but have at least forty-eight (48) months
19 of service, twenty-five percent (25%) of such premium shall be paid
20 from the insurance trust fund or accounts established pursuant to 26
21 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
22 and 78.520, provided such recipient agrees to pay the remaining seventy-
23 five percent (75%) by payroll deduction from his retirement allowance
24 or by another method. Notwithstanding the foregoing provisions of this
25 subsection, an employee participating in one (1) of the retirement
26 systems administered by the Kentucky Retirement Systems who
27 becomes disabled as a direct result of an act in line of duty as defined in

1 KRS 16.505 or as a result of a duty-related injury as defined in KRS
2 61.621, shall have his premium paid in full as if he had two hundred
3 forty (240) months or more of service. Further, an employee
4 participating in one (1) of the retirement systems administered by the
5 Kentucky Retirement Systems who ~~dies~~^{is killed} as a direct result of an
6 act in line of duty as defined in KRS 16.505, ~~or dies~~^{or} as a result of a
7 duty-related injury as defined in KRS 61.621, **becomes totally and**
8 **permanently disabled as a direct result of an act in line of duty as**
9 **defined in Section 1 of this Act or as a direct result of a single act of**
10 **violence committed against the member that is found to be related to**
11 **his or her job duties, whether or not it occurs at his or her job site, or**
12 **becomes disabled as a result of a duty-related injury as defined in**
13 **Section 3 of this Act**, shall have the premium for ~~his or her~~^{the} **spouse,**
14 **if the member is disabled, his or her** beneficiary, if the beneficiary is
15 the member's spouse **and the member is deceased**, and for each
16 dependent child as defined in KRS 16.505, paid so long as **the member,**
17 **beneficiary, or dependent child**~~they~~ individually ~~remains~~^{remain}
18 eligible for a monthly retirement benefit. "Months of service" as used in
19 this section shall mean the total months of combined service used to
20 determine benefits under any or all of the three (3) retirement systems,
21 except service added to determine disability benefits shall not be
22 counted as "months of service." For current and former employees of the
23 Council on Postsecondary Education who were employed prior to
24 January 1, 1993, and who earn at least fifteen (15) years of service credit
25 in the Kentucky Employees Retirement System, "months of service"
26 shall also include vested service in another retirement system other than
27 the Kentucky Teachers' Retirement System sponsored by the Council on

1 Postsecondary Education.

- 2 (b) 1. For a member electing insurance coverage through the Kentucky
3 Retirement Systems, "months of service" shall include, in addition to
4 service as described in paragraph (a) of this subsection, service credit in
5 one (1) of the other state-administered retirement plans.
- 6 2. Effective August 1, 1998, the Kentucky Retirement Systems shall
7 compute the member's combined service, including service credit in
8 another state-administered retirement plan, and calculate the portion of
9 the member's premium to be paid by the insurance trust fund accounts
10 established pursuant to 26 U.S.C. sec. 401(h) within the funds
11 established in KRS 16.510, 61.515, and 78.520, according to the criteria
12 established in paragraph (a) of this subsection. Each state-administered
13 retirement plan annually shall pay to the insurance trust fund the
14 percentage of the system's cost of the retiree's monthly contribution for
15 single coverage for hospital and medical insurance which shall be equal
16 to the percentage of the member's number of months of service in the
17 other state-administered retirement plan divided by his total combined
18 service. The amounts paid by the other state-administered retirement
19 plans and the insurance trust fund or accounts established pursuant to 26
20 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
21 and 78.520 shall not be more than one hundred percent (100%) of the
22 monthly contribution adopted by the respective boards of trustees.
- 23 3. A member may not elect coverage for hospital and medical benefits
24 under this subsection through more than one (1) of the state-
25 administered retirement plans.
- 26 4. A state-administered retirement plan shall not pay any portion of a
27 member's monthly contribution for medical insurance unless the member

1 is a recipient or annuitant of the plan.

2 5. The premium paid by the Kentucky Retirement Systems insurance trust
3 fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within
4 the funds established in KRS 16.510, 61.515, and 78.520 shall not
5 exceed one hundred percent (100%) of the monthly contribution rate
6 toward hospital and medical insurance coverage approved by the board
7 of trustees of the Kentucky Retirement Systems.

8 (4) (a) Group rates under the hospital and medical insurance plan shall be made
9 available to the spouse, each dependent child, and each disabled child,
10 regardless of the disabled child's age, of a recipient who is a former member
11 or the beneficiary, if the premium for the hospital and medical insurance for
12 the spouse, each dependent child, and each disabled child, or beneficiary is
13 paid by payroll deduction from the retirement allowance or by another
14 method. For purposes of this subsection only, a child shall be considered
15 disabled if he has been determined to be eligible for federal Social Security
16 disability benefits or meets the dependent disability standard established by
17 the Department of Employee Insurance in the Personnel Cabinet.

18 (b) The other provisions of this section notwithstanding, the insurance trust fund
19 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
20 established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the
21 monthly contribution for the spouse and for each dependent child of a
22 recipient who was a member of the General Assembly and is receiving a
23 retirement allowance based on General Assembly service, of the Kentucky
24 Employees Retirement System and determined to be in a hazardous position,
25 of the County Employees Retirement System, and determined to be in a
26 hazardous position or of the State Police Retirement System. The percentage
27 of the monthly contribution paid for the spouse and each dependent child of a

1 recipient who was in a hazardous position shall be based solely on the
2 member's service with the State Police Retirement System or service in a
3 hazardous position using the formula in subsection (3)(a) of this section,
4 except that for any recipient of a retirement allowance from the County
5 Employees Retirement System who was contributing to the system on January
6 1, 1998, for service in a hazardous position, the percentage of the monthly
7 contribution shall be based on the total of hazardous service and any
8 nonhazardous service as a police or firefighter with the same agency, if that
9 agency was participating in the County Employees Retirement System but did
10 not offer hazardous duty coverage for its police and firefighters at the time of
11 initial participation.

12 (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec.
13 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520
14 shall continue the same level of coverage for a recipient who was a member of
15 the County Employees Retirement System after the age of sixty-five (65) as
16 before the age of sixty-five (65), if the recipient is not eligible for Medicare
17 coverage. If the insurance trust fund or accounts established pursuant to 26
18 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and
19 78.520 provides coverage for the spouse or each dependent child of a former
20 member of the County Employees Retirement System, the insurance trust fund
21 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
22 established in KRS 16.510, 61.515, and 78.520 shall continue the same level
23 of coverage for the spouse or each dependent child after the age of sixty-five
24 (65) as before the age of sixty-five (65), if the spouse or dependent child is not
25 eligible for Medicare coverage.

26 (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member
27 who holds a judicial office but did not elect to participate in the Judicial Retirement

1 Plan and is participating instead in the Kentucky Employees Retirement System, the
2 County Employees Retirement System, or the State Police Retirement System, as
3 provided in KRS 61.680, and who has at least twenty (20) years of total service,
4 one-half (1/2) of which is in a judicial office, shall receive the same hospital and
5 medical insurance benefits, including paid benefits for spouse and dependents, as
6 provided to persons retiring under the provisions of KRS 21.427. The
7 Administrative Office of the Courts shall pay the cost of the medical insurance
8 benefits provided by this subsection.

9 (6) Premiums paid for hospital and medical insurance coverage procured under
10 authority of this section shall be exempt from any premium tax which might
11 otherwise be required under KRS Chapter 136. The payment of premiums by the
12 insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h)
13 within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute
14 taxable income to an insured recipient. No commission shall be paid for hospital
15 and medical insurance procured under authority of this section.

16 (7) The board shall promulgate an administrative regulation to establish a medical
17 insurance reimbursement plan to provide reimbursement for hospital and medical
18 insurance premiums of recipients of a retirement allowance who are not eligible for
19 the same level of hospital and medical benefits as recipients living in Kentucky and
20 having the same Medicare hospital and medical insurance eligibility status. An
21 eligible recipient shall file proof of payment for hospital and medical insurance at
22 the retirement office. Reimbursement to eligible recipients shall be made on a
23 quarterly basis. The recipient shall be eligible for reimbursement of substantiated
24 medical insurance premiums for an amount not to exceed the total monthly
25 premium determined under subsection (3) of this section. The plan shall not be
26 made available if all recipients are eligible for the same coverage as recipients
27 living in Kentucky.

- 1 (8) (a) 1. For employees having a membership date on or after July 1, 2003, and
2 before September 1, 2008, participation in the insurance benefits
3 provided under this section shall not be allowed until the employee has
4 earned at least one hundred twenty (120) months of service in the state-
5 administered retirement systems.
- 6 2. For an employee having a membership date on or after September 1,
7 2008, participation in the insurance benefits provided under this section
8 shall not be allowed until the employee has earned at least one hundred
9 eighty (180) months of service credited under KRS 16.543(1),
10 61.543(1), or 78.615(1) or another state-administered retirement system.
- 11 (b) An employee who meets the minimum service requirements as provided by
12 paragraph (a) of this subsection shall be eligible for benefits as follows:
- 13 1. For employees who are not in a hazardous position, a monthly insurance
14 contribution of ten dollars (\$10) for each year of service as a
15 participating employee.
- 16 2. For employees who are in a hazardous position or who participate in the
17 State Police Retirement System, a monthly insurance contribution of
18 fifteen dollars (\$15) for each year of service as a participating employee
19 in a hazardous position or as a participating member of the State Police
20 Retirement System. Upon the death of the retired member, the
21 beneficiary, if the beneficiary is the member's spouse, shall be entitled to
22 a monthly insurance contribution of ten dollars (\$10) for each year of
23 service the member attained as a participating employee in a hazardous
24 position or as a participating member of the State Police Retirement
25 System.
- 26 (c) 1. The minimum service requirement to participate in benefits as provided
27 by paragraph (a) of this subsection shall be waived for a member who is

- 1 disabled as a direct result of an act in line of duty as defined in KRS
2 16.505, and the member or his spouse and eligible dependents shall be
3 entitled to the benefits payable under this subsection as though the
4 member had twenty (20) years of service in a hazardous position.
- 5 2. The minimum service required to participate in benefits as provided by
6 paragraph (a) of this subsection shall be waived for a member who is
7 disabled by a duty-related injury as defined in KRS 61.621, and the
8 member shall be entitled to the benefits payable under this subsection as
9 though the member has twenty (20) years of service in a nonhazardous
10 position.
- 11 3. Notwithstanding the provisions of this section, the minimum service
12 required to participate in benefits as provided by paragraph (a) of this
13 subsection shall be waived for a member who dies as a direct result of an
14 act in line of duty as defined in KRS 16.505, who becomes totally and
15 permanently disabled as a direct result of an act in line of duty as
16 defined in Section 1 of this Act or as a direct result of a single act of
17 violence committed against the member that is found to be related to
18 his or her job duties, whether or not it occurs at his or her job site, ~~or~~
19 who dies as a result of a duty-related injury as defined in KRS 61.621,
20 or becomes disabled as a result of a duty-related injury as defined in
21 Section 3 of this Act, and the premium for the member, member's
22 spouse, and for each dependent child as defined in KRS 16.505 shall be
23 paid in full by the systems so long as they individually remain eligible
24 for a monthly retirement benefit.
- 25 (d) Except as provided by paragraph (c)3. of this subsection, the monthly
26 insurance contribution amount shall be increased July 1 of each year by one
27 and one-half percent (1.5%). The increase shall be cumulative and shall

1 continue to accrue after the member's retirement for as long as a monthly
2 insurance contribution is payable to the retired member or beneficiary.

3 (e) The benefits of this subsection provided to a member whose participation
4 begins on or after July 1, 2003, shall not be considered as benefits protected
5 by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The
6 General Assembly reserves the right to suspend or reduce the benefits
7 conferred in this subsection if in its judgment the welfare of the
8 Commonwealth so demands.

9 (f) An employee whose membership date is on or after September 1, 2008, who
10 retires and is reemployed in a regular full-time position required to participate
11 in one (1) of the systems administered by Kentucky Retirement Systems shall
12 not be eligible for health insurance coverage or benefits provided by this
13 section and shall take coverage with his or her employing agency during the
14 period of reemployment in a regular full-time position.

15 ➔Section 5. KRS 61.510 is amended to read as follows:

16 As used in KRS 61.510 to 61.705, unless the context otherwise requires:

17 (1) "System" means the Kentucky Employees Retirement System created by KRS
18 61.510 to 61.705;

19 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

20 (3) "Department" means any state department or board or agency participating in the
21 system in accordance with appropriate executive order, as provided in KRS 61.520.

22 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
23 General Assembly and any other body, entity, or instrumentality designated by
24 executive order by the Governor, shall be deemed to be a department,
25 notwithstanding whether said body, entity, or instrumentality is an integral part of
26 state government;

27 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

- 1 (5) "Employee" means the members, officers, and employees of the General Assembly
2 and every regular full-time, appointed or elective officer or employee of a
3 participating department, including the Department of Military Affairs. The term
4 does not include persons engaged as independent contractors, seasonal, emergency,
5 temporary, interim, and part-time workers. In case of any doubt, the board shall
6 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 7 (6) "Employer" means a department or any authority of a department having the power
8 to appoint or select an employee in the department, including the Senate and the
9 House of Representatives, or any other entity, the employees of which are eligible
10 for membership in the system pursuant to KRS 61.525;
- 11 (7) "State" means the Commonwealth of Kentucky;
- 12 (8) "Member" means any employee who is included in the membership of the system or
13 any former employee whose membership has not been terminated under KRS
14 61.535;
- 15 (9) "Service" means the total of current service and prior service as defined in this
16 section;
- 17 (10) "Current service" means the number of years and months of employment as an
18 employee, on and after July 1, 1956, except that for members, officers, and
19 employees of the General Assembly this date shall be January 1, 1960, for which
20 creditable compensation is paid and employee contributions deducted, except as
21 otherwise provided, and each member, officer, and employee of the General
22 Assembly shall be credited with a month of current service for each month he
23 serves in the position;
- 24 (11) "Prior service" means the number of years and completed months, expressed as a
25 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
26 creditable compensation was paid; except that for members, officers, and employees
27 of the General Assembly, this date shall be January 1, 1960. An employee shall be

1 credited with one (1) month of prior service only in those months he received
2 compensation for at least one hundred (100) hours of work; provided, however, that
3 each member, officer, and employee of the General Assembly shall be credited with
4 a month of prior service for each month he served in the position prior to January 1,
5 1960. Twelve (12) months of current service in the system are required to validate
6 prior service;

7 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
8 from the compensation of a member and credited to his individual account in the
9 members' account, including employee contributions picked up after August 1,
10 1982, pursuant to KRS 61.560(4), together with interest credited, or investment
11 returns earned as provided by KRS 61.5956, on such amounts and any other
12 amounts the member shall have contributed thereto, including interest credited
13 thereon or investment returns earned as provided by KRS 61.5956. "Accumulated
14 contributions" shall not include employee contributions that are deposited into
15 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established
16 in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

17 (13) "Creditable compensation":

18 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary,
19 wages, tips to the extent the tips are reported for income tax purposes, and
20 fees, including payments for compensatory time, paid to the employee as a
21 result of services performed for the employer or for time during which the
22 member is on paid leave, which are includable on the member's federal form
23 W-2 wage and tax statement under the heading "wages, tips, other
24 compensation," including employee contributions picked up after August 1,
25 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it
26 shall mean all amounts which are includable on the member's federal form W-
27 2 wage and tax statement under the heading "wages, tips, other

1 compensation," including employee contributions picked up after August 1,
2 1982, pursuant to KRS 6.505(4) or 61.560(4);

3 (b) Includes:

- 4 1. Lump-sum bonuses, severance pay, or employer-provided payments for
5 purchase of service credit, which shall be averaged over the employee's
6 total service with the system in which it is recorded if it is equal to or
7 greater than one thousand dollars (\$1,000);
- 8 2. Cases where compensation includes maintenance and other perquisites,
9 but the board shall fix the value of that part of the compensation not paid
10 in money;
- 11 3. Lump-sum payments for creditable compensation paid as a result of an
12 order of a court of competent jurisdiction, the Personnel Board, or the
13 Commission on Human Rights, or for any creditable compensation paid
14 in anticipation of settlement of an action before a court of competent
15 jurisdiction, the Personnel Board, or the Commission on Human Rights,
16 including notices of violations of state or federal wage and hour statutes
17 or violations of state or federal discrimination statutes, which shall be
18 credited to the fiscal year during which the wages were earned or should
19 have been paid by the employer. This subparagraph shall also include
20 lump-sum payments for reinstated wages pursuant to KRS 61.569,
21 which shall be credited to the period during which the wages were
22 earned or should have been paid by the employer;
- 23 4. Amounts which are not includable in the member's gross income by
24 virtue of the member having taken a voluntary salary reduction provided
25 for under applicable provisions of the Internal Revenue Code; and
- 26 5. Elective amounts for qualified transportation fringes paid or made
27 available on or after January 1, 2001, for calendar years on or after

1 January 1, 2001, that are not includable in the gross income of the
2 employee by reason of 26 U.S.C. sec. 132(f)(4); and

3 (c) Excludes:

- 4 1. Uniform, equipment, or any other expense allowances paid on or after
5 January 1, 2019, living allowances, expense reimbursements, lump-sum
6 payments for accrued vacation leave, and other items determined by the
7 board;
- 8 2. For employees who begin participating on or after September 1, 2008,
9 lump-sum payments for compensatory time;
- 10 3. For employees participating in a nonhazardous position who began
11 participating prior to September 1, 2008, and who retire after July 1,
12 2023, lump-sum payments for compensatory time upon termination of
13 employment;
- 14 4. For employees who begin participating on or after August 1, 2016,
15 nominal fees paid for services as a volunteer; and
- 16 5. Any salary or wages paid to an employee for services as a Kentucky
17 State Police school resource officer as defined by KRS 158.441;

18 (14) "Final compensation" of a member means:

- 19 (a) For a member who begins participating before September 1, 2008, who is
20 employed in a nonhazardous position, the creditable compensation of the
21 member during the five (5) fiscal years he was paid at the highest average
22 monthly rate divided by the number of months of service credit during that
23 five (5) year period multiplied by twelve (12). The five (5) years may be
24 fractional and need not be consecutive, except that for members retiring on or
25 after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If
26 the number of months of service credit during the five (5) year period is less
27 than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or

1 more additional fiscal years shall be used. If a member retiring on or after
2 January 1, 2019, does not have five (5) complete fiscal years that each contain
3 twelve (12) months of service credit, then one (1) or more additional fiscal
4 years, which may contain less than twelve (12) months of service credit, shall
5 be added until the number of months in the final compensation calculation is
6 at least sixty (60) months;

7 (b) For a member who is employed in a nonhazardous position, whose effective
8 retirement date is between August 1, 2001, and January 1, 2009, and whose
9 total service credit is at least twenty-seven (27) years and whose age and years
10 of service total at least seventy-five (75), final compensation means the
11 creditable compensation of the member during the three (3) fiscal years the
12 member was paid at the highest average monthly rate divided by the number
13 of months of service credit during that three (3) years period multiplied by
14 twelve (12). The three (3) years may be fractional and need not be
15 consecutive. If the number of months of service credit during the three (3)
16 year period is less than twenty-four (24), one (1) or more additional fiscal
17 years shall be used. Notwithstanding the provision of KRS 61.565, the
18 funding for this paragraph shall be provided from existing funds of the
19 retirement allowance;

20 (c) For a member who begins participating before September 1, 2008, who is
21 employed in a hazardous position, as provided in KRS 61.592, and who
22 retired prior to January 1, 2019, the creditable compensation of the member
23 during the three (3) fiscal years he was paid at the highest average monthly
24 rate divided by the number of months of service credit during that three (3)
25 year period multiplied by twelve (12). The three (3) years may be fractional
26 and need not be consecutive. If the number of months of service credit during
27 the three (3) year period is less than twenty-four (24), one (1) or more

1 additional fiscal years shall be used;

2 (d) For a member who begins participating on or after September 1, 2008, but
3 prior to January 1, 2014, who is employed in a nonhazardous position, the
4 creditable compensation of the member during the five (5) complete fiscal
5 years immediately preceding retirement divided by five (5). Each fiscal year
6 used to determine final compensation must contain twelve (12) months of
7 service credit. If the member does not have five (5) complete fiscal years that
8 each contain twelve (12) months of service credit, then one (1) or more
9 additional fiscal years, which may contain less than twelve (12) months of
10 service credit, shall be added until the number of months in the final
11 compensation calculation is at least sixty (60) months; or

12 (e) For a member who begins participating on or after September 1, 2008, but
13 prior to January 1, 2014, who is employed in a hazardous position as provided
14 in KRS 61.592, or for a member who begins participating prior to September
15 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
16 who retires on or after January 1, 2019, the creditable compensation of the
17 member during the three (3) complete fiscal years he was paid at the highest
18 average monthly rate divided by three (3). Each fiscal year used to determine
19 final compensation must contain twelve (12) months of service credit. If the
20 member does not have three (3) complete fiscal years that each contain twelve
21 (12) months of service credit, then one (1) or more additional fiscal years,
22 which may contain less than twelve (12) months of service credit, shall be
23 added until the number of months in the final compensation calculation is at
24 least thirty-six (36) months;

25 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
26 calculated during the twelve (12) month period immediately preceding the
27 member's effective retirement date, including employee contributions picked up

1 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
2 system by the employer and the following equivalents shall be used to convert the
3 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
4 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
5 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
6 one (1) year;

7 (16) "Retirement allowance" means the retirement payments to which a member is
8 entitled;

9 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
10 basis of the actuarial tables that are adopted by the board. In cases of disability
11 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
12 (10) years to the age of the member, unless the member has chosen the Social
13 Security adjustment option as provided for in KRS 61.635(8), in which case the
14 member's actual age shall be used. For members who began participating in the
15 system prior to January 1, 2014, no disability retirement option shall be less than the
16 same option computed under early retirement;

17 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
18 otherwise provided in KRS 61.510 to 61.705;

19 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
20 following June 30, which shall also be the plan year. The "fiscal year" shall be the
21 limitation year used to determine contribution and benefit limits as established by
22 26 U.S.C. sec. 415;

23 (20) "Officers and employees of the General Assembly" means the occupants of those
24 positions enumerated in KRS 6.150. The term shall also apply to assistants who
25 were employed by the General Assembly for at least one (1) regular legislative
26 session prior to July 13, 2004, who elect to participate in the retirement system, and
27 who serve for at least six (6) regular legislative sessions. Assistants hired after July

1 13, 2004, shall be designated as interim employees;

2 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
3 all positions that average one hundred (100) or more hours per month determined by
4 using the number of months actually worked within a calendar or fiscal year,
5 including all positions except:

6 (a) Seasonal positions, which although temporary in duration, are positions which
7 coincide in duration with a particular season or seasons of the year and which
8 may recur regularly from year to year, the period of time shall not exceed nine
9 (9) months;

10 (b) Emergency positions which are positions which do not exceed thirty (30)
11 working days and are nonrenewable;

12 (c) Temporary positions which are positions of employment with a participating
13 department for a period of time not to exceed nine (9) months and are
14 nonrenewable;

15 (d) Part-time positions which are positions which may be permanent in duration,
16 but which require less than a calendar or fiscal year average of one hundred
17 (100) hours of work per month, determined by using the number of months
18 actually worked within a calendar or fiscal year, in the performance of duty;
19 and

20 (e) Interim positions which are positions established for a one-time or recurring
21 need not to exceed nine (9) months;

22 (22) "Delayed contribution payment" means an amount paid by an employee for
23 purchase of current service. The amount shall be determined using the same formula
24 in KRS 61.5525, and the payment shall not be picked up by the employer. A
25 delayed contribution payment shall be deposited to the member's account and
26 considered as accumulated contributions of the individual member. In determining
27 payments under this subsection, the formula found in this subsection shall prevail

- 1 over the one found in KRS 212.434;
- 2 (23) "Parted employer" means a department, portion of a department, board, or agency,
3 such as Outwood Hospital and School, which previously participated in the system,
4 but due to lease or other contractual arrangement is now operated by a publicly held
5 corporation or other similar organization, and therefore is no longer participating in
6 the system. The term "parted employer" shall not include a department, board, or
7 agency that ceased participation in the system pursuant to KRS 61.522;
- 8 (24) "Retired member" means any former member receiving a retirement allowance or
9 any former member who has filed the necessary documents for retirement benefits
10 and is no longer contributing to the retirement system;
- 11 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
12 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
13 pay. The rate shall be certified by the employer;
- 14 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
15 the member in accordance with KRS 61.542 or 61.705 to receive any available
16 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
17 does not mean an estate, trust, or trustee;
- 18 (27) "Recipient" means the retired member or the person or persons designated as
19 beneficiary by the member and drawing a retirement allowance as a result of the
20 member's death or a dependent child drawing a retirement allowance. An alternate
21 payee of a qualified domestic relations order shall not be considered a recipient,
22 except for purposes of KRS 61.623;
- 23 (28) "Level dollar amortization method" means a method of determining the annual
24 amortization payment on the unfunded actuarial accrued liability that is set as an
25 equal dollar amount over the remaining amortization period as of the actuarial
26 valuation date. Under this method, the unfunded actuarially accrued liability shall
27 be projected to be fully amortized at the conclusion of the amortization period;

- 1 (29) "Increment" means twelve (12) months of service credit which are purchased. The
2 twelve (12) months need not be consecutive. The final increment may be less than
3 twelve (12) months;
- 4 (30) "Person" means a natural person;
- 5 (31) "Retirement office" means the Kentucky Retirement Systems office building in
6 Frankfort;
- 7 (32) "Last day of paid employment" means the last date employer and employee
8 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
9 78.615 to the retirement office in order for the employee to receive current service
10 credit for the month. Last day of paid employment does not mean a date the
11 employee receives payment for accrued leave, whether by lump sum or otherwise, if
12 that date occurs twenty-four (24) or more months after previous contributions;
- 13 (33) "Objective medical evidence" means reports of examinations or treatments; medical
14 signs which are anatomical, physiological, or psychological abnormalities that can
15 be observed; psychiatric signs which are medically demonstrable phenomena
16 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
17 or contact with reality; or laboratory findings which are anatomical, physiological,
18 or psychological phenomena that can be shown by medically acceptable laboratory
19 diagnostic techniques, including but not limited to chemical tests,
20 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 21 (34) "Participating" means an employee is currently earning service credit in the system
22 as provided in KRS 61.543;
- 23 (35) "Month" means a calendar month;
- 24 (36) "Membership date" means:
- 25 (a) The date upon which the member began participating in the system as
26 provided in KRS 61.543; or
- 27 (b) For a member electing to participate in the system pursuant to KRS

1 196.167(4) who has not previously participated in the system or the Kentucky
2 Teachers' Retirement System, the date the member began participating in a
3 defined contribution plan that meets the requirements of 26 U.S.C. sec.
4 403(b);

5 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
6 retired member, as defined by subsection (24) of this section;

7 (38) "Qualified domestic relations order" means any judgment, decree, or order,
8 including approval of a property settlement agreement, that:
9 (a) Is issued by a court or administrative agency; and
10 (b) Relates to the provision of child support, alimony payments, or marital
11 property rights to an alternate payee;

12 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
13 participant, who is designated to be paid retirement benefits in a qualified domestic
14 relations order;

15 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
16 member's account and interest credited on such amounts as provided by KRS
17 16.583 and 61.597;

18 (41) "Accumulated account balance" means:

19 (a) For members who began participating in the system prior to January 1, 2014,
20 the member's accumulated contributions;

21 (b) For members who began participating in the system on or after January 1,
22 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
23 the combined sum of the member's accumulated contributions and the
24 member's accumulated employer credit; or

25 (c) For nonhazardous members who are participating in the 401(a) money
26 purchase plan as provided by KRS 61.5956, the combined sum of the
27 member's accumulated contribution and the member's accumulated employer

1 contribution in the 401(a) money purchase plan;

2 (42) "Volunteer" means an individual who:

3 (a) Freely and without pressure or coercion performs hours of service for an
4 employer participating in one (1) of the systems administered by Kentucky
5 Retirement Systems without receipt of compensation for services rendered,
6 except for reimbursement of actual expenses, payment of a nominal fee to
7 offset the costs of performing the voluntary services, or both; and

8 (b) If a retired member, does not become an employee, leased employee, or
9 independent contractor of the employer for which he or she is performing
10 volunteer services for a period of at least twenty-four (24) months following
11 the retired member's most recent retirement date;

12 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
13 exceed five hundred dollars (\$500) per month. Compensation earned for services as
14 a volunteer from more than one (1) participating employer during a month shall be
15 aggregated to determine whether the compensation exceeds the five hundred dollars
16 (\$500) per month maximum provided by this subsection;

17 (44) "Nonhazardous position" means a position that does not meet the requirements of
18 KRS 61.592 or has not been approved by the board as a hazardous position;

19 (45) "Accumulated employer contribution" means the employer contribution deposited
20 to the member's account and any investment returns on such amounts as provided
21 by KRS 61.5956; and

22 (46) "Monthly average pay" means:

23 (a) In the case of a member who dies as a direct result of an act in line of duty
24 as defined in Section 1 of this Act or who dies as a result of a duty-related
25 injury as defined in Section 3 of this Act, the higher of the member's monthly
26 final rate of pay or the average monthly creditable compensation earned by the
27 deceased member during his or her last twelve (12) months of employment; **or**

1 **(b) In the case where a member becomes totally and permanently disabled as a**
 2 **direct result of an act in line of duty as defined in Section 1 of this Act or as**
 3 **a direct result of a single act of violence committed against the member that**
 4 **is found to be related to his or her job duties, whether or not it occurs at his**
 5 **or her job site, or becomes disabled as a result of a duty-related injury as**
 6 **defined in Section 3 of this Act, the higher of the member's monthly final**
 7 **rate of pay or the average monthly creditable compensation earned by the**
 8 **disabled member during his or her last twelve (12) months of employment**
 9 **prior to the date the disabling event occurred or the single act of violence**
 10 **occurred.**

11 ➔Section 6. KRS 78.510 is amended to read as follows:

12 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- 13 (1) "System" means the County Employees Retirement System;
- 14 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- 15 (3) "County" means any county, or nonprofit organization created and governed by a
 16 county, counties, or elected county officers, sheriff and his employees, county clerk
 17 and his employees, circuit clerk and his deputies, former circuit clerks or former
 18 circuit clerk deputies, or political subdivision or instrumentality, including school
 19 boards, charter county government, or urban-county government participating in the
 20 system by order appropriate to its governmental structure, as provided in KRS
 21 78.530, and if the board is willing to accept the agency, organization, or
 22 corporation, the board being hereby granted the authority to determine the eligibility
 23 of the agency to participate;
- 24 (4) "School board" means any board of education participating in the system by order
 25 appropriate to its governmental structure, as provided in KRS 78.530, and if the
 26 board is willing to accept the agency or corporation, the board being hereby granted
 27 the authority to determine the eligibility of the agency to participate;

- 1 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 2 (6) "Employee" means every regular full-time appointed or elective officer or employee
3 of a participating county and the coroner of a participating county, whether or not he
4 qualifies as a regular full-time officer. The term shall not include persons engaged
5 as independent contractors, seasonal, emergency, temporary, and part-time workers.
6 In case of any doubt, the board shall determine if a person is an employee within the
7 meaning of KRS 78.510 to 78.852;
- 8 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
9 officials of a county, or any authority of the county having the power to appoint or
10 elect an employee to office or employment in the county;
- 11 (8) "Member" means any employee who is included in the membership of the system or
12 any former employee whose membership has not been terminated under KRS
13 61.535;
- 14 (9) "Service" means the total of current service and prior service as defined in this
15 section;
- 16 (10) "Current service" means the number of years and months of employment as an
17 employee, on and after July 1, 1958, for which creditable compensation is paid and
18 employee contributions deducted, except as otherwise provided;
- 19 (11) "Prior service" means the number of years and completed months, expressed as a
20 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
21 creditable compensation was paid. An employee shall be credited with one (1)
22 month of prior service only in those months he received compensation for at least
23 one hundred (100) hours of work. Twelve (12) months of current service in the
24 system shall be required to validate prior service;
- 25 (12) "Accumulated contributions" means the sum of all amounts deducted from the
26 compensation of a member and credited to his individual account in the members'
27 account, including employee contributions picked up after August 1, 1982, pursuant

1 to KRS 78.610(4), together with interest credited, or investment returns earned as
2 provided by KRS 61.5956, on the amounts, and any other amounts the member
3 shall have contributed thereto, including interest credited thereon or investment
4 returns earned as provided by KRS 61.5956. "Accumulated contributions" shall not
5 include employee contributions that are deposited into accounts established
6 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,
7 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

8 (13) "Creditable compensation":

9 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary,
10 wages, and fees, including payments for compensatory time, paid to the
11 employee as a result of services performed for the employer or for time during
12 which the member is on paid leave, which are includable on the member's
13 federal form W-2 wage and tax statement under the heading "wages, tips,
14 other compensation", including employee contributions picked up after
15 August 1, 1982, pursuant to KRS 78.610(4);

16 (b) Includes:

- 17 1. Lump-sum bonuses, severance pay, or employer-provided payments for
18 purchase of service credit, which shall be averaged over the employee's
19 service with the system in which it is recorded if it is equal to or greater
20 than one thousand dollars (\$1,000);
- 21 2. Cases where compensation includes maintenance and other perquisites,
22 but the board shall fix the value of that part of the compensation not paid
23 in money;
- 24 3. Lump-sum payments for creditable compensation paid as a result of an
25 order of a court of competent jurisdiction, the Personnel Board, or the
26 Commission on Human Rights, or for any creditable compensation paid
27 in anticipation of settlement of an action before a court of competent

1 jurisdiction, the Personnel Board, or the Commission on Human Rights,
2 including notices of violations of state or federal wage and hour statutes
3 or violations of state or federal discrimination statutes, which shall be
4 credited to the fiscal year during which the wages were earned or should
5 have been paid by the employer. This subparagraph shall also include
6 lump-sum payments for reinstated wages pursuant to KRS 61.569,
7 which shall be credited to the period during which the wages were
8 earned or should have been paid by the employer;

- 9 4. Amounts which are not includable in the member's gross income by
10 virtue of the member having taken a voluntary salary reduction provided
11 for under applicable provisions of the Internal Revenue Code; and
12 5. Elective amounts for qualified transportation fringes paid or made
13 available on or after January 1, 2001, for calendar years on or after
14 January 1, 2001, that are not includable in the gross income of the
15 employee by reason of 26 U.S.C. sec. 132(f)(4); and

16 (c) Excludes:

- 17 1. Uniform, equipment, or any other expense allowances paid on or after
18 January 1, 2019, living allowances, expense reimbursements, lump-sum
19 payments for accrued vacation leave, sick leave except as provided in
20 KRS 78.616(5), and other items determined by the board;
21 2. For employees who begin participating on or after September 1, 2008,
22 lump-sum payments for compensatory time;
23 3. Training incentive payments for city officers paid as set out in KRS
24 64.5277 to 64.5279;
25 4. For employees who begin participating on or after August 1, 2016,
26 nominal fees paid for services as a volunteer;
27 5. For employees who are employed in a nonhazardous position, who

1 began participating prior to September 1, 2008, and who retire after July
2 1, 2023, lump-sum payments for compensatory time upon termination of
3 employment; and

4 6. Any salary or wages paid to an employee for services as a Kentucky
5 State Police school resource officer as defined by KRS 158.441;

6 (14) "Final compensation" means:

7 (a) For a member who begins participating before September 1, 2008, who is
8 employed in a nonhazardous position, the creditable compensation of the
9 member during the five (5) fiscal years he was paid at the highest average
10 monthly rate divided by the number of months of service credit during that
11 five (5) year period multiplied by twelve (12). The five (5) years may be
12 fractional and need not be consecutive, except that for members retiring on or
13 after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If
14 the number of months of service credit during the five (5) year period is less
15 than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or
16 more additional fiscal years shall be used. If a member retiring on or after
17 January 1, 2019, does not have five (5) complete fiscal years that each contain
18 twelve (12) months of service credit, then one (1) or more additional fiscal
19 years, which may contain less than twelve (12) months of service credit, shall
20 be added until the number of months in the final compensation calculation is
21 at least sixty (60) months;

22 (b) For a member who is employed in a nonhazardous position, whose effective
23 retirement date is between August 1, 2001, and January 1, 2009, and whose
24 total service credit is at least twenty-seven (27) years and whose age and years
25 of service total at least seventy-five (75), final compensation means the
26 creditable compensation of the member during the three (3) fiscal years the
27 member was paid at the highest average monthly rate divided by the number

1 of months of service credit during that three (3) year period multiplied by
2 twelve (12). The three (3) years may be fractional and need not be
3 consecutive. If the number of months of service credit during the three (3)
4 year period is less than twenty-four (24), one (1) or more additional fiscal
5 years shall be used. Notwithstanding the provision of KRS 61.565, the
6 funding for this paragraph shall be provided from existing funds of the
7 retirement allowance;

8 (c) For a member who begins participating before September 1, 2008, who is
9 employed in a hazardous position, as provided in KRS 61.592, and who
10 retired prior to January 1, 2019, the creditable compensation of the member
11 during the three (3) fiscal years he was paid at the highest average monthly
12 rate divided by the number of months of service credit during that three (3)
13 year period multiplied by twelve (12). The three (3) years may be fractional
14 and need not be consecutive. If the number of months of service credit during
15 the three (3) year period is less than twenty-four (24), one (1) or more
16 additional fiscal years, which may contain less than twelve (12) months of
17 service credit, shall be used;

18 (d) For a member who begins participating on or after September 1, 2008, but
19 prior to January 1, 2014, who is employed in a nonhazardous position, the
20 creditable compensation of the member during the five (5) complete fiscal
21 years immediately preceding retirement divided by five (5). Each fiscal year
22 used to determine final compensation must contain twelve (12) months of
23 service credit. If the member does not have five (5) complete fiscal years that
24 each contain twelve (12) months of service credit, then one (1) or more
25 additional fiscal years, which may contain less than twelve (12) months of
26 service credit, shall be added until the number of months in the final
27 compensation calculation is at least sixty (60) months; or

1 (e) For a member who begins participating on or after September 1, 2008, but
2 prior to January 1, 2014, who is employed in a hazardous position as provided
3 in KRS 61.592, or for a member who begins participating prior to September
4 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
5 who retires on or after January 1, 2019, the creditable compensation of the
6 member during the three (3) complete fiscal years he was paid at the highest
7 average monthly rate divided by three (3). Each fiscal year used to determine
8 final compensation must contain twelve (12) months of service credit. If the
9 member does not have three (3) complete fiscal years that each contain twelve
10 (12) months of service credit, then one (1) or more additional fiscal years,
11 which may contain less than twelve (12) months of service credit, shall be
12 added until the number of months in the final compensation calculation is at
13 least thirty-six (36) months;

14 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
15 calculated during the twelve (12) month period immediately preceding the
16 member's effective retirement date, and shall include employee contributions picked
17 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
18 the system by the employer and the following equivalents shall be used to convert
19 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
20 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
21 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
22 (12) months, one (1) year;

23 (16) "Retirement allowance" means the retirement payments to which a member is
24 entitled;

25 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
26 basis of the actuarial tables adopted by the board. In cases of disability retirement,
27 the options authorized by KRS 61.635 shall be computed by adding ten (10) years

1 to the age of the member, unless the member has chosen the Social Security
2 adjustment option as provided for in KRS 61.635(8), in which case the member's
3 actual age shall be used. For members who begin participating in the system prior to
4 January 1, 2014, no disability retirement option shall be less than the same option
5 computed under early retirement;

6 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
7 otherwise provided in KRS 78.510 to 78.852;

8 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
9 following June 30, which shall also be the plan year. The "fiscal year" shall be the
10 limitation year used to determine contribution and benefits limits as set out in 26
11 U.S.C. sec. 415;

12 (20) "Agency reporting official" means the person designated by the participating agency
13 who shall be responsible for forwarding all employer and employee contributions
14 and a record of the contributions to the system and for performing other
15 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

16 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
17 all positions that average one hundred (100) or more hours per month, determined
18 by using the number of hours actually worked in a calendar or fiscal year, or eighty
19 (80) or more hours per month in the case of noncertified employees of school
20 boards, determined by using the number of hours actually worked in a calendar or
21 school year, unless otherwise specified, except:

22 (a) Seasonal positions, which although temporary in duration, are positions which
23 coincide in duration with a particular season or seasons of the year and that
24 may recur regularly from year to year, in which case the period of time shall
25 not exceed nine (9) months, except for employees of school boards, in which
26 case the period of time shall not exceed six (6) months;

27 (b) Emergency positions that are positions that do not exceed thirty (30) working

- 1 days and are nonrenewable;
- 2 (c) Temporary positions that are positions of employment with a participating
3 agency for a period of time not to exceed twelve (12) months and not
4 renewable;
- 5 (d) Probationary positions which are positions of employment with a participating
6 employer that do not exceed twelve (12) months and that are used uniformly
7 by the participating agency on new employees who would otherwise be
8 eligible for participation in the system. Probationary positions shall not be
9 renewable by the participating employer for the same employee, unless the
10 employee has not been employed with the participating employer for a period
11 of at least twelve (12) months; or
- 12 (e) Part-time positions that are positions that may be permanent in duration, but
13 that require less than a calendar or fiscal year average of one hundred (100)
14 hours of work per month, determined by using the number of months actually
15 worked within a calendar or fiscal year, in the performance of duty, except in
16 case of noncertified employees of school boards, the school term average shall
17 be eighty (80) hours of work per month, determined by using the number of
18 months actually worked in a calendar or school year, in the performance of
19 duty;
- 20 (22) "Alternate participation plan" means a method of participation in the system as
21 provided for by KRS 78.530(3);
- 22 (23) "Retired member" means any former member receiving a retirement allowance or
23 any former member who has on file at the retirement office the necessary
24 documents for retirement benefits and is no longer contributing to the system;
- 25 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
26 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
27 pay. The rate shall be certified by the employer;

- 1 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
2 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
3 in the event of the member's death. As used in KRS 61.702, beneficiary shall not
4 mean an estate, trust, or trustee;
- 5 (26) "Recipient" means the retired member, the person or persons designated as
6 beneficiary by the member and drawing a retirement allowance as a result of the
7 member's death, or a dependent child drawing a retirement allowance. An alternate
8 payee of a qualified domestic relations order shall not be considered a recipient,
9 except for purposes of KRS 61.623;
- 10 (27) "Person" means a natural person;
- 11 (28) "School term or year" means the twelve (12) months from July 1 through the
12 following June 30;
- 13 (29) "Retirement office" means the Kentucky Retirement Systems office building in
14 Frankfort;
- 15 (30) "Delayed contribution payment" means an amount paid by an employee for current
16 service obtained under KRS 61.552. The amount shall be determined using the
17 same formula in KRS 61.5525, except the determination of the actuarial cost for
18 classified employees of a school board shall be based on their final compensation,
19 and the payment shall not be picked up by the employer. A delayed contribution
20 payment shall be deposited to the member's account and considered as accumulated
21 contributions of the individual member. In determining payments under this
22 subsection, the formula found in this subsection shall prevail over the one found in
23 KRS 212.434;
- 24 (31) "Participating" means an employee is currently earning service credit in the system
25 as provided in KRS 78.615;
- 26 (32) "Month" means a calendar month;
- 27 (33) "Membership date" means the date upon which the member began participating in

- 1 the system as provided in KRS 78.615;
- 2 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
3 retired member, as defined by subsection (23) of this section;
- 4 (35) "Qualified domestic relations order" means any judgment, decree, or order,
5 including approval of a property settlement agreement, that:
- 6 (a) Is issued by a court or administrative agency; and
7 (b) Relates to the provision of child support, alimony payments, or marital
8 property rights to an alternate payee;
- 9 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
10 participant, who is designated to be paid retirement benefits in a qualified domestic
11 relations order;
- 12 (37) "Accumulated employer credit" means the employer pay credit deposited to the
13 member's account and interest credited on such amounts as provided by KRS
14 16.583 and 61.597;
- 15 (38) "Accumulated account balance" means:
- 16 (a) For members who began participating in the system prior to January 1, 2014,
17 the member's accumulated contributions;
- 18 (b) For members who began participating in the system on or after January 1,
19 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
20 the combined sum of the member's accumulated contributions and the
21 member's accumulated employer credit; or
- 22 (c) For nonhazardous members who are participating in the 401(a) money
23 purchase plan as provided by KRS 61.5956, the combined sum of the
24 member's accumulated contributions and the member's accumulated employer
25 contributions in the 401(a) money purchase plan;
- 26 (39) "Volunteer" means an individual who:
- 27 (a) Freely and without pressure or coercion performs hours of service for an

1 employer participating in one (1) of the systems administered by Kentucky
2 Retirement Systems without receipt of compensation for services rendered,
3 except for reimbursement of actual expenses, payment of a nominal fee to
4 offset the costs of performing the voluntary services, or both; and

5 (b) If a retired member, does not become an employee, leased employee, or
6 independent contractor of the employer for which he or she is performing
7 volunteer services for a period of at least twenty-four (24) months following
8 the retired member's most recent retirement date;

9 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
10 exceed five hundred dollars (\$500) per month. Compensation earned for services as
11 a volunteer from more than one (1) participating employer during a month shall be
12 aggregated to determine whether the compensation exceeds the five hundred dollars
13 (\$500) per month maximum provided by this subsection;

14 (41) "Nonhazardous position" means a position that does not meet the requirements of
15 KRS 61.592 or has not been approved by the board as a hazardous position;

16 (42) "Accumulated employer contribution" means the employer contribution deposited
17 to the member's account and any investment returns on such amounts as provided
18 by KRS 61.5956; and

19 (43) "Monthly average pay" means:

20 (a) In the case of a member who dies as a direct result of an act in line of duty
21 as defined in Section 1 of this Act or who dies as a result of a duty-related
22 injury as defined in Section 3 of this Act, the higher of the member's monthly
23 final rate of pay or the average monthly creditable compensation earned by the
24 deceased member during his or her last twelve (12) months of employment; or

25 (b) In the case where a member becomes totally and permanently disabled as a
26 direct result of an act in line of duty as defined in Section 1 of this Act or as
27 a direct result of a single act of violence committed against the member that

1 *is found to be related to his or her job duties, whether or not it occurs at his*
2 *or her job site, or becomes disabled as a result of a duty-related injury as*
3 *defined in Section 3 of this act, the higher of the member's monthly final*
4 *rate of pay or the average monthly creditable compensation earned by the*
5 *disabled member during his or her last twelve (12) months of employment*
6 *prior to the date the disabling event occurred or the single act of violence*
7 *occurred.*

8 ➔Section 7. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to
9 78.852, 161.220 to 161.716, or any provision of Sections 1 to 6 of this Act to the
10 contrary, the Kentucky Retirement Systems shall provide the following benefit
11 adjustments to members, and beneficiaries and dependent children of those members,
12 who become disabled prior to the effective date of this Act and whose disability was
13 determined by the systems to be a total and permanent disability that was the direct result
14 of an act in line of duty as defined in subsection (19) of Section 1 of this Act or whose
15 disability resulted from a duty-related injury as defined in Section 3 of this Act:

16 (1) In the month following the effective date of this Act, the member, or the beneficiary
17 of the member if the beneficiary is receiving a monthly benefit due to a member's
18 death and selection of a payment pursuant to KRS 61.635 that provided a monthly
19 payment to the beneficiary upon their death, and the dependent children of the
20 member, shall have his or her monthly benefit increased to the amount specified by
21 Section 2 or 3 of this Act, as applicable, except that the amount payable to the
22 member or beneficiary of the member shall not be increased above a level that
23 exceeds 100 percent of the member's monthly average pay when combined with any
24 dependent child payments from the systems and prior to any adjustment for an
25 optional payment plan selected by the member upon retirement in accordance with
26 KRS 61.635. The systems may adjust this amount to reflect any optional payment
27 plans selected by the member in accordance with KRS 61.635 upon disability

1 retirement;

2 (2) In the month following the effective date of this Act, any member, spouse of a
3 disabled or deceased member, and any dependent child of a deceased member who
4 is receiving a monthly benefit shall be eligible for the health benefits specified by
5 the amendments to Section 4 of this Act; and

6 (3) The provisions of this section shall only be construed to provide benefit adjustments
7 to members, beneficiaries, and dependent children of those members who were
8 disabled prior to the effective date of this Act and only in situations where the
9 member's disability was determined by the systems to be a total and permanent
10 disability that was the direct result of an act in line of duty as defined in subsection
11 (19) of Section 1 of this Act or was a disability that resulted from a duty-related
12 injury as defined in Section 3 of this Act.

13 ➔Section 8. The provisions of Sections 1 to 7 of this Act shall not reduce any
14 benefits payable to any member, beneficiary, or dependent children of a member who
15 became disabled prior to the effective date of this Act and whose disability was
16 determined by the systems to either be a total and permanent disability that was the direct
17 result of an act in line of duty as defined in subsection (19) of Section 1 of this Act or
18 was a disability that resulted from a duty-related injury as defined in Section 3 of this Act.

19 ➔Section 9. Whereas protecting and honoring the families of public safety
20 officers and employees who have given their health and their lives in service to the
21 Commonwealth is a value held by all Kentuckians, an emergency is declared to exist, and
22 this Act takes effect upon its passage and approval by the Governor or upon its otherwise
23 becoming a law.